HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.28348 of 1995

Dated: 07.02.2007

Between:

Ch. Lakshmi Narayana Rao

.. Petitioner

And

The Appellate Authority &
Managing Director,
State Bank of Hyderabad &
three others

.. Respondents

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No.28348 of 1995

O R D E R:

The order dated 8.4.1995 of the Appellate Authority and Managing Director, State Bank of Hyderabad (the 1st respondent) which confirmed the order dated 19.10.1994 of the Chief General Manager & Appointing Authority, State Bank of Hyderabad (the 2nd respondent), is under challenge in this writ petition. By the latter order of the 2nd respondent the petitioner was visited with the penalty of reduction in the basic pay by one stage while treating the period of suspension "as such", besides denying any allowances other than the subsistence allowance already paid to him and he is rendered ineligible for the increments during the period of suspension.

Shorn of unnecessary details, the petitioner, who joined the State Bank of Hyderabad on 19.11.1975, was at the relevant point of time, the Branch Manager of Machareddy Branch. His career ran into rough weather with the initiation of the disciplinary proceedings against him. As an initial step, he was placed under suspension on 18.1.1990, which he unsuccessfully questioned in

W.P.No.783 of 1990. Later, he was served with a charge sheet issued by the 3rd respondent on 13.7.1990 framing as many as 21 charges. On 29.2.1991, an enquiry officer was appointed and the enquiry was completed on 7.1.1994. The enquiry officer submitted his enquiry report on 4.7.1994 to the 2nd respondent, who, as aforementioned, passed the final orders imposing penalty on the petitioner. Of the 21 charges, the enquiry officer held that Charge No.9 was partly proved and Charge No.12 was proved in its entirety. Feeling aggrieved by the orders of respondents 1 and 2, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned standing counsel for the State Bank of Hyderabad and perused the record.

The learned counsel for the petitioner vehemently contended that the charges framed against the petitioner are frivolous and baseless. It is further contended that the very fact that out of 21 charges as many as 19 charges were held not proved, itself fortifies his submission. He also contended that even with respect to charges 9 and 12, which were held either partly proved or proved, the findings are not based on proper evidence and both the disciplinary authority and the appellate authority completely failed to appreciate the material on record from a correct perspective in holding that the petitioner is guilty of misconduct and imposing a major penalty on him.

Per contra, the learned standing counsel submitted that the

findings of the disciplinary authority and also the appellate authority are based on the contents of the enquiry report and also the independent analysis of the material on record, which clearly brought home the misconduct of the petitioner. He further submitted that appreciation of evidence and the power to impose penalty is within the exclusive domain of the disciplinary authority and this Court, while exercising the power of judicial review will not re-appreciate the evidence on record. He also submitted that the penalty imposed upon the petitioner commensurates with the gravity of misconduct and hence no interference is called for.

After holding a detailed enquiry, the enquiry officer found the petitioner partly guilty of Charge No.9 and guilty of Charge No.12. The substance of Charge No.9 is that one Asham Swamy Goud, S/o.Narasa Goud sent a complaint dated 27.10.1989 wherein it is stated that the petitioner instigated him to apply for a loan for purchasing a crane. The petitioner allegedly received Rs.500/- from him as bribe. It is further stated in the complaint that the petitioner called Asham Swami Goud during March, 1989, informed him that a sum of Rs.25,000/- was sanctioned as loan amount and in that connection he spent Rs.2,000/- at Hyderabad, and hence, he demanded the bribe of Rs.2,500/- from him. When Asham Swami Goud wanted to purchase the entire machinery as per the quotation obtained by him from M/s.Vijaya Laxmi Electrical and Mechanical Works, Siddipeta for Rs.25,100/- which included a sum of Rs.7,500/- towards cost of 5.H.P. Oil Engine, the petitioner, instead of paying that amount to the supplier, issued a draft for Rs.8000/- in the name of M/s.Ramakrishna Traders,

Kamareddy towards supply of 5.H.P. Texmo Oil Engine. It was further stated by the complainant that the dealer M/s.Ramakrishna Traders refunded a sum of Rs.5,500/- to him after deducting a sum of Rs.2,500/- towards bribe amount payable to the petitioner from the total loan amount of Rs.8000/-. Out of Rs.5,500/-, the dealer gave the borrower Rs.3,500/- in cash and issued a cheque in his favour for a sum of Rs.2,000/-, which was encashed by the borrower on 25.4.1989 in the same branch in which the petitioner was working.

During the enquiry, the complainant was examined as MW6. He reiterated his stand taken in the complaint. The 2nd respondent discussed the entire evidence in detail and agreed with the finding of the enquiry officer that the petitioner, in order to make unlawful personal gain placed orders on M/s.Ramakrishna Traders at a higher amount of Rs.8000/- as against the quotation given by M/s.Vijaya Laxmi Electrical and Mechanical Works, Siddipet for Rs.7,500/- for supply of Oil Engine. The 2nd respondent also accepted the finding of the enquiry officer that M/s.Ramakrishna Traders does not manufacture Texmo Oil Engines and had not supplied any such oil engine to the borrower. In the face of categorical deposition of MW6 that he received the amount of Rs.3,500/- from M/s.Ramakrishna Traders and also encashed a cheque, which was marked as ME7, for Rs.2,000/- issued in the name of the complainant himself, the disciplinary authority accepted the finding of the enquiry officer that the petitioner engineered the fraudulent transaction for a monitory

gain. The 2nd respondent also concurred with the view of the enquiry officer that the allegation that the complainant paid Rs.500/- to the petitioner as bribe was not established. Thus, the disciplinary authority agreed to the findings of the enquiry officer that Charge No.9 was partly proved to the extent as discussed above.

With respect to Charge No.12, one Sri Pandiri Pandari borrowed a sum of Rs.10,000/- from the State Bank of Hyderabad and in that connection the petitioner allegedly accepted a sum of Rs.400/- as bribe to sanction the loan. In order to see that P.Pandari gets another loan under S.E.E.U.Y scheme, the petitioner advised him to close the said loan amount and sanctioned him a fresh loan of Rs.15,000/-. The petitioner initially released Rs.10,000/-. For releasing the balance amount of Rs.5,000/- he allegedly demanded bribe of Rs.400/- from him. According to the complaint filed by P.Pandari, he paid Rs.700/- towards bribe to the petitioner and he paid a total sum of Rs.1,100/- towards bribe in the two loan transactions. P. Pandari, the complainant, was examined as MW9 and on the basis of his deposition, Charge No.12 was held proved.

The scope and amplitude of judicial review in matters relating to departmental proceedings is narrow and it has been held in a long line of cases that if there is some evidence which reasonably supports the charge of misconduct, the Courts/Tribunals would not interfere with the decision of the disciplinary authority. Some of the judgments which can be

usefully referred to in this context are **State of Andhra Pradesh vs. S. Sree Rama Rao[1], State of Andhra Pradesh vs. Chitra Venkata Rao[2], B.C.Chaturvedi vs. Union of India & Others[3], State of Tamilnadu vs. S. Subramaniam[4] and Principal Secretary, Government of A.P. vs. M.Adinarayana[5].**

From the evidence available on record, which was discussed in the foregoing part of the order, it is clear that the finding of guilt was recorded by the enquiry officer based on the evidence of the complainants, who happened to be the borrowers and who are stated to have paid money to the petitioner towards bribe. Once there is some evidence on record from which the misconduct of the delinquent employee can be reasonably presumed, this Court would not examine whether such evidence is sufficient or not. In a departmental proceeding unlike in a criminal case, proof beyond reasonable doubt is not the requirement and the finding of misconduct can be based on even preponderance of probabilities. Having examined the material on record and the detailed reasons given by the 2nd respondent, the disciplinary authority, I have no hesitation to hold that the material on record fully justifies the findings recorded by the disciplinary authority holding that the petitioner is partly guilty of Charge No.9 and guilty of Charge No.12 in its entirety. The appellate authority, in my view rightly concurred with the view of the disciplinary authority. Even as regards the penalty imposed on the petitioner, there is no reason to hold that the same is disproportionate to the gravity of

the misconduct, which in the present case involves financial misfeasance on the part of the petitioner. I am, therefore, not inclined to interfere with the order of penalty imposed by the 2nd respondent and confirmed by the 1st respondent.

For the aforementioned reasons, the writ petition fails and is dismissed. No costs.

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C.V. NAGARJUNA REDDY, J

Date: 07.02.2007
Bcj/Es

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[1] AIR 1963 SC 1723
[2] AIR 1975 SC 2151
[3] (1995) 6 SCC 749
[4] (1996) 7 SCC 509
[5] (2004) 12 SCC 579